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09/748,520	12/22/2000	Aman Gupta	GEMS8081.045	4205
27061 7590 01/27/2009 ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS) 136 S WISCONSIN ST PORT WASHINGTON, WI 53074			EXAMINER LE, UYEN T	
			ART UNIT	PAPER NUMBER
			2163	
			NOTIFICATION DATE	DELIVERY MODE
			01/27/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: AMAN GUPTA, AMIT MAHESHWARI
and JAMES A. YENERICH

Application No. 09/748,520
Technology Center 2100

Mailed: January 26, 2009

Before Deborah L. Perry, Supervisory Paralegal Specialist.
Perry, Supervisory Paralegal Specialist

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 12, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section 1207.02 of the *Manual of Patent Examining Procedure*

(MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Supplemental Examiner's Answer mailed August 1, 2008, is deficient because the "Evidence Relied Upon" section fails to include the reference Parad (5,369,570) cited on page 5 in the Examiner's Answer's grounds of rejection of Claims 8-21 and 26-35 under 35 USC 103(a). Correction is required.

The Examiner may issue a PTOL-90 to correct the Appendix, Evidence Relied Upon, if appropriate.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) vacate the Examiner's Answer mailed August 1, 2008;
- 2) issue a revised Examiner's Answer correctly setting forth the Evidence Relied Upon section and to correct other sections of the Answer as may be required (if appropriate); or
- 3) issue a form PTOL-90 to correct the Evidence appendix (if appropriate),
- 4) include the approval of the TC Director or his/her designee (as may be required for any new grounds of rejection, if appropriate); and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP

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